



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

June 9, 2016

Linda Mann  
PetSmart, Inc.  
19601 N. 27<sup>th</sup> Avenue  
Phoenix, Arizona 85027

ATTN: Business License

**Notice of Warning and Notice of Deficiency**

**Re: Violation of Title 02, N. C. Administrative Code ("NCAC") Chapter 52J, Sections .0102(1-3) and .0103.**

**AWS-WL-2016-16**

Boarding Kennel: PetSmart 2230  
License 11090

Dear Ms. Mann:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N. C. Department of Agriculture and Consumer Services ("NCDA&CS") conducted facility inspections of PetSmart 2230 ("the kennel") on November 16, 2015, April 20, 2016 and May 9, 2016.

The facility inspections were marked "Approved" but the inspections noted consistent failure to comply with 02 NCAC Chapter 52J, Sections .0102(1-3) and .0103. During the April 20, 2016 and May 9, 2016 inspections, kennel staff indicated that the records required by the N. C. Animal Welfare Act ("NC AWA") and its associated rules were not currently being kept by the kennel. Furthermore, the staff members indicated that, due to corporate policy, the kennel has no intention of keeping the records or making the records available at the time of inspection.

During each of the three inspections noted above, AWS Animal Health Technician Lindsey Lloyd showed and explained the regulations to the kennel staff and explained the consequences of failure to comply with the NC AWA and its associated regulations. Despite being provided this information, the kennel continues to fail to comply with these regulations.

Based on the results of the three facility inspections, as detailed in the attached inspection reports, you are in violation of the following regulations:

- 1) 02 NCAC 52J .0102(1-3); and
- 2) 02 NCAC 52J .0103

This Warning Letter, in conjunction with the enclosed Inspection Reports, serves as written notice indicting in which respects the kennel has failed to satisfy the requirements for the holding of a license as a boarding kennel.

The kennel is to correct all deficiencies described in the enclosed facility inspections within 30 days of the date of receipt of this letter. Continued or future violation of these statutes or regulations will be considered to be a willful disregard or violation of the same. Such willful disregard or violation of the NC Animal Welfare Act and the rules issued pursuant thereto may result in disciplinary action against your facility's license pursuant to N. C. General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N. C. General Statute §19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS  
Director of Animal Welfare Section  
Veterinary Division

cc: Dr. R. Douglas Meckes, State Veterinarian  
Joe Reardon, Assistant Commissioner, NCDA&CS  
Tina Hlabse, General Counsel, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General

## Appendix

### RELEVANT LAWS AND REGULATIONS

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

#### **§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

### 02 NCAC 52J SECTION .0200 - FACILITIES AND OPERATING STANDARDS

#### **02 NCAC 52J .0102 RECORDS; BOARDING KENNELS**

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;
- (2) description of animal including breed, sex, age and color marking; and
- (3) veterinary care provided while boarded, which shall include date, times, description of medication (including name and dosage) and initials of person administering product or procedure.

*History Note:* Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.

**02 NCAC 52J .0103      INSPECTION OF RECORDS**

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the director or his authorized representative on request, during the business and cleaning hours listed on the license application. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released.

*History Note:*      *Authority G.S. 19A-24; 19A-25;*  
                         *Eff. April 1, 1984;*  
                         *Amended Eff. January 1, 2005; April 1, 1985.*